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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/052,329 | 01/18/2002 | Charles C. Hart | AUS-1828-AL | 1170 |
| 7590 | 11/06/2003 | | EXAMINER | |
| Richard L. Myers 22872 Avenida Empresa Rancho Santa Margarita, CA 92688 | | | DAVIS, DANIEL J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3731 | 6 |
| | | | DATE MAILED: 11/06/2003 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|----------------------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/052,329 | HART ET AL. | |
| | Examiner D. Jacob Davis | Art Unit 3731 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 3,4,6-11 and 26-37 is/are allowed.
- 6) Claim(s) 12 and 13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,055,874 to Brown. Col. 2, lines 45-51 disclose a type of clip wherein, "...spraying the plastic compound over the wire, rod, strip or other longitudinal flat metal member, in such a way as to provide a relatively flat surface on a at least one side which becomes the interior sides of the legs of the finished fastener which contacts the papers to be fastened." The plastic coating is used to grip, and thus must have a higher coefficient of friction than the metal substrate. The layout of the clip, illustrated by example in either of figures 1 or 7, disclose the use of legs that work together to form a sliding and a crimped state. The plastic coating inherently covers the metal substrate such that a barrier is formed between the substrate and the material being attached.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,055,874 to Brown. Brown discloses a clip 30 in Fig. 7 having a sliding state wherein the opposing legs 20' and 22' are retracted, and a crimped state wherein the legs are in contact with one another. Although the clip is intended to attach paper, it may also be used to attach suture. As disclosed in col. 4, lines 48-53, the clip includes an inner gripping coat 34. Although he does not state that the gripping coat has a greater coefficient of friction than the substrate, there would be no need for the gripping layer if the substrate already had an equal or greater coefficient of friction than the substrate. Brown fails to disclose that the coating is made of a plastic. However, the embodiment of Fig. 1 teaches that plastic is used as a gripping material. See col. 3, lines 20-24 and 59-68. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the coating out of a plastic material because of its gripping, or higher friction property.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,055,874 to Brown in view of U.S. Patent No. 5,179,765 to Sungberg. Brown teaches a coating made of a plastic but fails to disclose the particular material of plastic. Sungberg discloses in col. 2, lines 66-68 that clips are "easily and economically manufactured of polypropylene." (Note that both Brown's clip and Sungberg's clip are intended to be used to attach paper). Although Sungberg's entire clip is made of plastic, and not merely a coating, he still offers a teaching in the art that polypropylene

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is known as an economical plastic material that may be used. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make Brown's plastic layer coating out of polypropylene in order to manufacture the clip easily and economically.

Allowable Subject Matter

Claims 3, 4, 6-11 and 26-37 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Jacob Davis whose telephone number is (703) 305-1232. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

DJD
November 2, 2003


MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700